

First Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 19-1001.01 Pierce Lively x2059

HOUSE BILL 19-1309

HOUSE SPONSORSHIP

Hooton and McCluskie,

SENATE SPONSORSHIP

(None),

House Committees

Transportation & Local Government
Finance
Appropriations

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE REGULATION OF MOBILE HOME PARKS, AND, IN
102 CONNECTION THEREWITH, GRANTING COUNTIES THE POWER TO
103 ENACT ORDINANCES FOR MOBILE HOME PARKS, EXTENDING THE
104 TIME TO MOVE OR SELL A MOBILE HOME AFTER EVICTION
105 PROCEEDINGS, AND CREATING THE "MOBILE HOME PARK
106 DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM".

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill provides protections for mobile home owners by:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! Granting counties the power to enact certain ordinances for mobile home parks;
- ! Extending the time period between the notice of nonpayment of rent and the termination of any tenancy or other estate at will or lease in a mobile home park; and
- ! Extending the time a mobile home owner has to vacate a mobile home park after a court enters an eviction order.

The bill also creates the "Mobile Home Park Dispute Resolution and Enforcement Program" (program). The program authorizes the division of housing of the department of local affairs to:

- ! Register mobile home parks;
- ! Collect a registration fee from mobile home parks;
- ! Collect and annually report upon data related to disputes and violations of the "Mobile Home Park Act" (act);
- ! Produce and distribute educational materials concerning the act and the program;
- ! Create and maintain a database of mobile home parks;
- ! Create and maintain a database to manage the program; and
- ! Take complaints, conduct investigations, make determinations, impose penalties, and participate in administrative dispute resolutions when there are alleged violations of the act.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 hereby finds and declares that:

4 (a) Mobile homes, manufactured housing, and factory-built
5 housing are important and effective ways to meet Colorado's affordable
6 housing needs;

7 (b) As of 2018, more than 100,000 Coloradans live in
8 manufactured homes;

9 (c) As of 2015, the median income for Coloradans living in
10 manufactured homes is \$39,000;

11 (d) The department of regulatory agencies' 2018 "Sunrise Review:
12 Manufactured Housing Community Owners and Managers" found that:
13 "Clearly, harm is occurring in manufactured housing communities...The

1 harm largely stems from the lack of enforcement of existing laws, bad
2 actors exploiting a relatively loose regulatory structure, and the inevitable
3 tension that arises when the house belongs to one person but the land
4 beneath it belongs to someone else."

5 (e) Moving mobile homes is costly and it is challenging to find an
6 alternative mobile home park with vacancies willing to accept a mobile
7 home. In some instances, a mobile home owner may not be able to move
8 their mobile home because of the mobile home's age and condition. A
9 mobile home owner may be forced to sell their home for an unreasonably
10 low price due to the abbreviated timeline to move it or the inability to do
11 so. Extending the time to vacate, move, or sell the home provides
12 adequate time for home owners to sell or move their homes without
13 experiencing a needless loss of property or equity.

14 (f) Both mobile home owners who rent a space for their mobile
15 home in a mobile home park and mobile home landlords have important
16 rights and responsibilities under the "Mobile Home Park Act", part 2 of
17 article 12 of title 38, Colorado Revised Statutes;

18 (g) Although mobile home owners and mobile home park
19 landlords may pursue litigation to contest a violation of the "Mobile
20 Home Park Act", the litigation process can be expensive, cumbersome,
21 and more time consuming than an administrative regulatory and dispute
22 resolution process; and

23 (h) Local communities, both home rule and statutory, play an
24 important role in ensuring that the "Mobile Home Park Act" is upheld, but
25 counties lack the power to enact the ordinances necessary to adequately
26 fulfill this role.

27 (2) Therefore, it is the intent of the general assembly to:

1 (a) Provide mobile home owners additional time to either sell or
2 move their mobile homes by extending the time a mobile home owner has
3 to vacate a mobile home park after a court enters an eviction order;

4 (b) Allow counties to play a similar role as home rule cities in
5 ensuring that the "Mobile Home Park Act" is upheld by granting county
6 boards of commissioners additional permissive authority to regulate and
7 enforce regulations of mobile home parks throughout the counties'
8 unincorporated areas; and

9 (c) Support better communication and promote mutual
10 understanding between mobile home landlords, management, and home
11 owners by creating the "Mobile Home Park Act Dispute Resolution and
12 Enforcement Program".

13 **SECTION 2.** In Colorado Revised Statutes, 24-32-705, **add**
14 (1)(u) as follows:

15 **24-32-705. Functions of division.** (1) The division has the
16 following functions:

17 (u) TO ENFORCE THE PROVISIONS OF THE "MOBILE HOME PARK
18 ACT DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" CREATED IN
19 PART 9 OF ARTICLE 12 OF TITLE 38, AND THE RULES AND REGULATIONS
20 ADOPTED PURSUANT TO THE "MOBILE HOME PARK ACT DISPUTE
21 RESOLUTION AND ENFORCEMENT PROGRAM", IN ACCORDANCE WITH
22 SECTION 38-12-904.

23 **SECTION 3.** In Colorado Revised Statutes, **add** 30-11-128 as
24 follows:

25 **30-11-128. Mobile home parks - definition.** (1) THE BOARD OF
26 COUNTY COMMISSIONERS OF EACH COUNTY HAS THE POWER TO ADOPT,
27 ADMINISTER, AND ENFORCE ORDINANCES AND RESOLUTIONS TO PROVIDE

1 FOR THE SAFE AND EQUITABLE OPERATION OF MOBILE HOME PARKS
2 THROUGHOUT THE UNINCORPORATED AREAS OF THE COUNTY. THESE
3 ORDINANCES AND RESOLUTIONS MAY BE ENACTED WITHIN THE SCOPE OF
4 THE "MOBILE HOME PARK ACT", PART 2 OF ARTICLE 12 OF TITLE 38, AND
5 FURTHER AS THE BOARD DEEMS NECESSARY TO PROTECT HOME OWNERS'
6 EQUITY IN THE SAFE USE AND ENJOYMENT OF THE MOBILE HOMES AND
7 MOBILE HOME LOTS, INCLUDING BUT NOT LIMITED TO THE IMPOSITION OF
8 PENALTIES OR ADOPTION OF A LOCAL REGISTRATION SYSTEM.

9 (2) EXCEPT AS PROVIDED IN SUBSECTION (3) OF THIS SECTION, AN
10 ORDINANCE OR RESOLUTION ENACTED BY A COUNTY'S BOARD OF COUNTY
11 COMMISSIONERS IS ONLY ENFORCEABLE WITHIN THE UNINCORPORATED
12 AREA OF THE COUNTY.

13 (3) ONE OR MORE CONTIGUOUS COUNTIES AND ANY MUNICIPALITY
14 OR TOWN WITHIN EACH COUNTY MAY ENTER INTO INTERGOVERNMENTAL
15 AGREEMENTS TO EXTEND THE APPLICABILITY OF ANY ORDINANCE OR
16 RESOLUTION ADOPTED UNDER THIS SECTION TO AND THROUGHOUT ANY
17 PARTICIPATING COUNTY, MUNICIPALITY, OR TOWN.

18 (4) FOR PURPOSES OF THIS SECTION, "HOME OWNER", "LANDLORD",
19 "MOBILE HOME", "MOBILE HOME LOT", AND "MOBILE HOME PARK" HAVE
20 THE SAME MEANING AS THEY ARE DEFINED IN SECTION 38-12-201.5.

21 **SECTION 4.** In Colorado Revised Statutes, 38-12-201.5, **amend**
22 the introductory portion as follows:

23 **38-12-201.5. Definitions.** As used in this part 2 AND IN PART 9 OF
24 THIS TITLE 38, unless the context otherwise requires:

25 **SECTION 5.** In Colorado Revised Statutes, 38-12-204, **amend**
26 (1) as follows:

27 **38-12-204. Nonpayment of rent - notice required for rent**

1 **increase.** (1) Any tenancy or other estate at will or lease in a mobile
2 home park may be terminated upon the landlord's written notice to the
3 home owner requiring, in the alternative, payment of rent or the removal
4 of the home owner's unit from the premises, within a period of not less
5 than ~~five~~ TEN days after the date notice is served or posted, for failure to
6 pay rent when due.

7 **SECTION 6.** In Colorado Revised Statutes, 38-12-204.3, **amend**
8 (2) as follows:

9 **38-12-204.3. Notice required for termination.** (2) The notice
10 required under this section ~~shall~~ MUST be in at least ten-point type and
11 ~~shall~~ MUST read as follows:

12 **IMPORTANT NOTICE TO THE HOME OWNER:**

13 This notice and the accompanying notice to quit/notice of
14 nonpayment of rent are the first steps in the eviction process. Any dispute
15 you may have regarding the grounds for eviction should be addressed
16 with your landlord or the management of the mobile home park or in the
17 courts if an eviction action is filed. Please be advised that the "Mobile
18 Home Park Act", part 2 of article 12 of title 38, Colorado Revised
19 Statutes, may provide you with legal protection:

20 NOTICE TO QUIT: The landlord or management of a mobile
21 home park must serve to a home owner a notice to quit in order to
22 terminate a home owner's tenancy. The notice must be in writing and
23 must contain certain information, including:

- 24 ! The grounds for the termination of the tenancy;
- 25 ! Whether or not the home owner has a right to cure under
26 the "Mobile Home Park Act"; and
- 27 ! That the home owner has a right to mediation pursuant to

1 with a statement of reasons for termination of the tenancy;
2 and

3 ! The reasons for termination of the tenancy are true and
4 valid under the "Mobile Home Park Act".

5 A home owner must appear in court to defend against an eviction
6 action. If the court rules in favor of the landlord or management of the
7 mobile home park, the home owner ~~will have~~ HAS not less than ~~48 hours~~
8 SIXTY DAYS from the time of the ruling to EITHER remove OR SELL the
9 mobile home and to vacate the premises. ~~If a tenancy is being terminated~~
10 ~~pursuant to section 38-12-203 (1)(f), Colorado Revised Statutes, the home~~
11 ~~owner shall have not less than 48 hours from the time of the ruling to~~
12 ~~remove the home and vacate the premises. In all other circumstances, if~~
13 ~~the home owner wishes to extend such period beyond 48 hours but not~~
14 ~~more than thirty days from the date of the ruling, the home owner shall~~
15 ~~prepay to the landlord an amount equal to any total amount declared by~~
16 ~~the court to be due to the landlord, as well as a pro rata share of rent for~~
17 ~~each day following the court's ruling that the mobile home owner will~~
18 ~~remain on the premises. All prepayments shall be paid by certified check,~~
19 ~~by cashier's check, or by wire transfer and shall be paid no later than 48~~
20 ~~hours after the court ruling~~ THIS SECTION DOES NOT PRECLUDE EARLIER
21 REMOVAL OF A MOBILE HOME OR ONE OR MORE MOBILE HOME OWNERS OR
22 OCCUPANTS FROM THE MOBILE HOME PARK IF A MOBILE HOME OWNER
23 VIOLATES ARTICLE 3, 4, 6, 7, 9, 10, 12, OR 18 OF TITLE 18 OR SECTION
24 16-13-303.

25 **SECTION 7.** In Colorado Revised Statutes, 38-12-208, **amend**
26 (1)(b) as follows:

27 **38-12-208. Remedies.** (1) (b) The notice of judgment ~~shall~~ MUST

1 state that, at a specified time not less than ~~forty-eight hours~~ SIXTY DAYS
2 from the entry of judgment, if a ~~tenancy is being terminated pursuant to~~
3 ~~section 38-12-203 (1)(f) and, in all other instances, not less than~~
4 ~~forty-eight hours from the entry of judgment, which may be extended to~~
5 ~~not more than thirty days after the entry of judgment if the home owner~~
6 ~~has prepaid by certified check, by cashier's check, or by wire transfer no~~
7 ~~later than forty-eight hours after the court ruling to the landlord an~~
8 ~~amount equal to any total amount declared by the court to be due to the~~
9 ~~landlord, as well as a pro rata share of rent for each day following the~~
10 ~~court's ruling that the mobile home owner will remain on the premises, IN~~
11 INSTANCES WHERE THE MOBILE HOME MUST BE REMOVED FROM THE
12 MOBILE HOME LOT, the sheriff ~~will~~ SHALL return to serve a writ of
13 restitution and superintend the peaceful and orderly removal of the mobile
14 home under that order of court. The notice of judgment ~~shall~~ MUST also
15 advise the home owner, IN INSTANCES WHERE THE MOBILE HOME MUST BE
16 REMOVED FROM THE MOBILE HOME LOT, to prepare the mobile home for
17 removal from the premises by removing the skirting, disconnecting
18 utilities, attaching tires, and otherwise making the mobile home safe and
19 ready for highway travel.

20 **SECTION 8.** In Colorado Revised Statutes, **add** part 9 to article
21 12 of title 38 as follows:

22 PART 9

23 MOBILE HOME PARK ACT DISPUTE

24 RESOLUTION AND ENFORCEMENT PROGRAM

25 **38-12-901. Short title.** THE SHORT TITLE OF THIS PART 9 IS THE
26 "MOBILE HOME PARK ACT DISPUTE RESOLUTION AND ENFORCEMENT
27 PROGRAM".

1 HAS FILED A COMPLAINT ALLEGING A VIOLATION OF THE ACT OR THE
2 COMPLAINANT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
3 ACT ON THE COMPLAINANT'S BEHALF.

4 (3) "DIVISION" MEANS THE DIVISION OF HOUSING OF THE
5 DEPARTMENT OF LOCAL AFFAIRS.

6 (4) "FUND" MEANS THE MOBILE HOME PARK ACT DISPUTE
7 RESOLUTION AND ENFORCEMENT PROGRAM FUND CREATED IN SECTION
8 38-12-910.

9 (5) "PENALTY" MEANS A MONETARY PENALTY LEVIED AGAINST A
10 COMPLAINANT OR RESPONDENT BECAUSE OF A VIOLATION OF EITHER THE
11 ACT OR THE PROGRAM.

12 (6) "PROGRAM" MEANS THE "MOBILE HOME PARK ACT DISPUTE
13 RESOLUTION AND ENFORCEMENT PROGRAM" CREATED IN THIS PART 9.

14 (7) "RESPONDENT" MEANS A LANDLORD OR HOME OWNER,
15 ALLEGED TO HAVE COMMITTED A VIOLATION OF THE ACT, OR THE
16 RESPONDENT'S AGENT, EMPLOYEE, OR REPRESENTATIVE AUTHORIZED TO
17 ACT ON THE RESPONDENT'S BEHALF.

18 **38-12-904. Dispute resolution program - creation - division of**
19 **housing - duties - report - rules.** (1) THE "MOBILE HOME PARK ACT
20 DISPUTE RESOLUTION AND ENFORCEMENT PROGRAM" IS HEREBY
21 CREATED.

22 (2) THE DIVISION SHALL:

23 (a) PRODUCE EDUCATIONAL MATERIALS REGARDING THE ACT AND
24 THE PROGRAM. THESE MATERIALS MUST BE IN BOTH ENGLISH AND
25 SPANISH AND MUST INCLUDE A NOTICE IN A FORMAT THAT A LANDLORD
26 CAN REASONABLY POST IN A MOBILE HOME PARK. THE NOTICE MUST
27 SUMMARIZE HOME OWNER RIGHTS AND RESPONSIBILITIES, PROVIDE

1 INFORMATION ON HOW TO FILE A COMPLAINT WITH THE DIVISION,
2 DESCRIBE THE PROTECTIONS AFFORDED HOME OWNERS UNDER SECTION
3 38-12-905 (13), AND PROVIDE A TOLL-FREE TELEPHONE NUMBER AND
4 WEBSITE THAT LANDLORDS AND HOME OWNERS CAN USE TO SEEK
5 ADDITIONAL INFORMATION AND COMMUNICATE COMPLAINTS SPECIFIC TO
6 THE PROGRAM;

7 (b) DISTRIBUTE THE EDUCATIONAL MATERIALS DESCRIBED IN
8 SUBSECTION (2)(a) OF THIS SECTION TO ALL KNOWN LANDLORDS AND, AS
9 REQUESTED, TO ANY COMPLAINANTS OR RESPONDENTS;

10 (c) ENSURE THAT LANDLORDS POST THE NOTICE PROVIDED IN
11 SUBSECTION (2)(a) OF THIS SECTION IN A CLEARLY VISIBLE LOCATION IN
12 COMMON AREAS OF MOBILE HOME PARKS, INCLUDING ANY COMMUNITY
13 HALL OR RECREATION HALL;

14 (d) ENFORCE A PENALTY IF THE DIVISION DISCOVERS THAT THE
15 LANDLORD HAS NOT APPROPRIATELY POSTED THE NOTICE PROVIDED IN
16 SUBSECTION (2)(a) OF THIS SECTION IN ACCORDANCE WITH THE
17 REQUIREMENTS OF SUBSECTION (2)(c) OF THIS SECTION;

18 (e) CREATE AND MAINTAIN A REGISTRATION DATABASE OF MOBILE
19 HOME PARKS;

20 (f) CREATE AND MAINTAIN A DATABASE OF MOBILE HOME PARKS
21 THAT HAVE HAD COMPLAINTS FILED AGAINST THEM UNDER THE PROGRAM;

22 (g) PROVIDE AN ANNUAL REPORT TO THE TRANSPORTATION AND
23 LOCAL GOVERNMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES, OR
24 ITS SUCCESSOR COMMITTEE, AND THE LOCAL GOVERNMENT COMMITTEE OF
25 THE SENATE, OR ITS SUCCESSOR COMMITTEE, AND PUBLISH THAT ANNUAL
26 REPORT ON THE DIVISION'S OFFICIAL WEBSITE;

27 (h) RECEIVE COMPLAINTS AND PERFORM DISPUTE RESOLUTION

1 ACTIVITIES RELATED TO THE PROGRAM, INCLUDING INVESTIGATIONS,
2 NEGOTIATIONS, DETERMINATIONS OF VIOLATIONS, AND IMPOSITION OF
3 PENALTIES AS DESCRIBED IN SECTION 38-12-905;

4 (i) ISSUE SUBPOENAS;

5 (j) PROMULGATE SUCH RULES AS ARE NECESSARY TO IMPLEMENT
6 THE PROVISIONS OF THE PROGRAM CREATED IN THIS PART 9 AND TO
7 CLARIFY THE REQUIREMENTS OF THE "MOBILE HOME PARK ACT", PART 2
8 OF THIS ARTICLE 12. SUCH RULES SHALL BE PROMULGATED IN
9 ACCORDANCE WITH ARTICLE 4 OF TITLE 24.

10 (3) THE PROGRAM MUST BE FUNDED BY THE PENALTIES AND FEES
11 DEPOSITED IN THE FUND AND ANY OTHER RESOURCES DIRECTED TO THE
12 PROGRAM.

13 **38-12-905. Dispute resolution program - complaint process.**

14 (1) BEGINNING MAY 1, 2020, ANY AGGRIEVED PARTY MAY FILE A
15 COMPLAINT WITH THE DIVISION ALLEGING A VIOLATION OF THE ACT OR
16 THIS PART 9.

17 (2) AFTER RECEIVING A COMPLAINT UNDER THIS PART 9, THE
18 DIVISION SHALL INVESTIGATE THE ALLEGED VIOLATIONS AT THE DIVISION'S
19 DISCRETION AND, IF APPROPRIATE, FACILITATE NEGOTIATIONS BETWEEN
20 THE COMPLAINANT AND THE RESPONDENT.

21 (3) (a) COMPLAINANTS AND RESPONDENTS SHALL COOPERATE
22 WITH THE DIVISION IN THE COURSE OF AN INVESTIGATION BY RESPONDING
23 TO SUBPOENAS ISSUED BY THE DIVISION. THE SUBPOENAS MAY SEEK
24 ACCESS TO PAPERS OR OTHER DOCUMENTS AND PROVIDE SITE ACCESS TO
25 THE MOBILE HOME PARKS RELEVANT TO THE INVESTIGATION.
26 COMPLAINANTS AND RESPONDENTS MUST RESPOND TO THE DIVISION'S
27 SUBPOENAS WITHIN TEN DAYS OF THE DIVISION SENDING THE SUBPOENAS.

1 (b) FAILURE TO COOPERATE WITH THE DIVISION IN THE COURSE OF
2 AN INVESTIGATION IS A VIOLATION OF THIS PART 9.

3 (4) (a) IF, AFTER AN INVESTIGATION, THE DIVISION DETERMINES
4 THAT THE PARTIES ARE UNABLE TO COME TO AN AGREEMENT, THE
5 DIVISION SHALL MAKE A WRITTEN DETERMINATION ON WHETHER A
6 VIOLATION OF THE ACT HAS OCCURRED.

7 (b) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
8 VIOLATION OF THE ACT HAS OCCURRED, THE DIVISION SHALL DELIVER A
9 WRITTEN NOTICE OF VIOLATION BY CERTIFIED MAIL TO BOTH THE
10 COMPLAINANT AND THE RESPONDENT. THE NOTICE OF VIOLATION MUST
11 SPECIFY THE VIOLATION, THE ACTION REQUIRED TO CURE THE VIOLATION,
12 THE TIME WITHIN WHICH THAT ACTION MUST BE TAKEN, THE PENALTIES
13 THAT WILL BE IMPOSED IF THAT ACTION IS NOT TAKEN WITHIN THE
14 SPECIFIED TIME PERIOD, AND THE PROCESS FOR CONTESTING THE
15 DETERMINATION, REQUIRED ACTION, AND PENALTIES.

16 (c) IF THE DIVISION FINDS BY A WRITTEN DETERMINATION THAT A
17 VIOLATION OF THE ACT HAS NOT OCCURRED, THE DIVISION SHALL DELIVER
18 A WRITTEN NOTICE OF NONVIOLATION TO BOTH THE COMPLAINANT AND
19 THE RESPONDENT BY CERTIFIED MAIL. THE NOTICE OF NONVIOLATION
20 MUST INCLUDE THE PROCESS FOR CONTESTING THE DETERMINATION
21 INCLUDED IN THE NOTICE OF NONVIOLATION BY MEANS OF AN
22 ADMINISTRATIVE HEARING.

23 (5) THE RESPONDENT MUST COMPLY WITH THE REQUIREMENTS OF
24 A NOTICE OF VIOLATION FROM THE DIVISION WITHIN SEVEN DAYS OF THE
25 NOTICE OF VIOLATION BECOMING A FINAL ORDER UNDER EITHER
26 SUBSECTION (7)(b) OR (9)(b) OF THIS SECTION, EXCEPT AS REQUIRED
27 OTHERWISE BY THE DIVISION, UNLESS THE RESPONDENT HAS SUBMITTED

1 A TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING TO CONTEST THE
2 NOTICE UNDER SUBSECTION (7) OF THIS SECTION. IF A RESPONDENT FAILS
3 TO COMPLY WITH THE REQUIREMENTS OF A NOTICE OF VIOLATION WITHIN
4 THE REQUIRED TIME PERIOD AND THE DIVISION HAS NOT RECEIVED A
5 TIMELY REQUEST FOR AN ADMINISTRATIVE HEARING, THE DIVISION MAY
6 IMPOSE A PENALTY, UP TO A MAXIMUM OF FIVE THOUSAND DOLLARS PER
7 VIOLATION PER DAY, FOR EACH DAY THAT A VIOLATION REMAINS
8 UNCORRECTED. WHEN DETERMINING THE AMOUNT OF THE PENALTY TO
9 IMPOSE ON A RESPONDENT, THE DIVISION SHALL CONSIDER THE SEVERITY
10 AND DURATION OF THE VIOLATION AND THE IMPACT OF THE VIOLATION ON
11 OTHER COMMUNITY RESIDENTS. IF THE RESPONDENT SHOWS, UPON TIMELY
12 APPLICATION TO THE DIVISION, THAT A GOOD FAITH EFFORT TO COMPLY
13 WITH THE REQUIREMENTS OF THE NOTICE OF VIOLATION HAS BEEN MADE
14 AND THAT THE RESPONDENT HAS NOT COMPLIED BECAUSE OF MITIGATING
15 FACTORS BEYOND THE RESPONDENT'S CONTROL, THE DIVISION MAY DELAY
16 THE IMPOSITION OF A PENALTY.

17 (6) THE DIVISION MAY ISSUE AN ORDER REQUIRING THE
18 RESPONDENT TO CEASE AND DESIST FROM AN UNLAWFUL PRACTICE. THE
19 DIVISION MAY ALSO ISSUE AN ORDER REQUIRING THE RESPONDENT TO
20 TAKE ACTIONS THAT IN THE JUDGMENT OF THE DIVISION WILL CARRY OUT
21 THE PURPOSES OF THIS PART 9. THE ACTIONS MAY INCLUDE, BUT ARE NOT
22 LIMITED TO:

23 (a) REFUNDS OF RENT INCREASES, IMPROPER FEES, AND CHARGES
24 COLLECTED IN VIOLATION OF THIS PART 9;

25 (b) FILING DOCUMENTS THAT CORRECT A STATUTORY OR RULE
26 VIOLATION; AND

27 (c) TAKING ACTION NECESSARY TO CORRECT A STATUTORY OR

1 RULE VIOLATION.

2 (7) (a) A COMPLAINANT OR RESPONDENT MAY REQUEST AN
3 ADMINISTRATIVE HEARING BEFORE AN ADMINISTRATIVE LAW JUDGE TO
4 CONTEST:

5 (I) A NOTICE OF VIOLATION ISSUED UNDER SUBSECTION (4)(b) OF
6 THIS SECTION OR A NOTICE OF NONVIOLATION ISSUED UNDER SUBSECTION
7 (4)(c) OF THIS SECTION;

8 (II) A PENALTY IMPOSED UNDER SUBSECTION (5) OF THIS SECTION;
9 OR

10 (III) AN ORDER TO CEASE AND DESIST OR AN ORDER TO TAKE
11 ACTIONS UNDER SUBSECTION (6) OF THIS SECTION.

12 (b) IF THE COMPLAINANT OR RESPONDENT REQUESTS AN
13 ADMINISTRATIVE HEARING PURSUANT TO SUBSECTION (7)(a) OF THIS
14 SECTION, THE COMPLAINANT OR RESPONDENT MUST FILE THE REQUEST
15 WITHIN FIFTEEN BUSINESS DAYS OF RECEIPT OF A NOTICE OF VIOLATION,
16 NOTICE OF NONVIOLATION PENALTY, ORDER, OR ACTION. IF AN
17 ADMINISTRATIVE HEARING IS NOT REQUESTED WITHIN THIS TIME PERIOD,
18 THE NOTICE OF VIOLATION OR NOTICE OF NONVIOLATION CONSTITUTES A
19 FINAL ORDER OF THE DIVISION AND IS NOT SUBJECT TO REVIEW BY ANY
20 COURT OR AGENCY.

21 (8) HEARINGS BEFORE THE OFFICE OF ADMINISTRATIVE COURTS
22 MUST BE CONDUCTED IN ACCORDANCE WITH ARTICLE 4 OF TITLE 24,
23 UNLESS OTHERWISE SPECIFIED IN THIS SECTION.

24 (9) (a) AN APPOINTED ADMINISTRATIVE LAW JUDGE SHALL:

25 (I) HEAR AND RECEIVE PERTINENT EVIDENCE AND TESTIMONY;

26 (II) DECIDE WHETHER THE EVIDENCE SUPPORTS THE DIVISION'S
27 FINDING BY A PREPONDERANCE OF THE EVIDENCE; AND

1 (III) ENTER AN APPROPRIATE ORDER WITHIN THIRTY DAYS AFTER
2 THE COMPLETION OF THE HEARING AND IMMEDIATELY MAIL COPIES OF THE
3 ORDER TO THE AFFECTED PARTIES.

4 (b) AN ORDER ENTERED BY AN ADMINISTRATIVE LAW JUDGE
5 CONSTITUTES THE FINAL AGENCY ORDER OF THE DIVISION AND IS SUBJECT
6 TO JUDICIAL REVIEW PURSUANT TO ARTICLE 4 OF TITLE 24. AN ORDER
7 ENTERED BY AN ADMINISTRATIVE LAW JUDGE MAY BE APPEALED BY THE
8 RESPONDENT AND THE DIVISION.

9 (10) WHEN THE DIVISION IMPOSES ANY PENALTY AGAINST A
10 RESPONDENT LANDLORD UNDER THIS PART 9, THE RESPONDENT MAY NOT
11 SEEK ANY RECOVERY OR REIMBURSEMENT OF THE PENALTY FROM A
12 COMPLAINANT OR FROM ANY OTHER HOME OWNER.

13 (11) ALL MONEY COLLECTED FROM THE IMPOSITION OF ANY
14 PENALTIES IMPOSED UNDER THIS SECTION OTHER THAN ANY PORTION OF
15 THE PENALTIES REQUIRED TO BE PAID TO A COMPLAINANT MUST BE
16 DEPOSITED IN THE FUND.

17 (12) THIS SECTION DOES NOT PROVIDE AN EXCLUSIVE REMEDY AND
18 DOES NOT LIMIT THE RIGHT OF LANDLORDS OR HOME OWNERS TO TAKE
19 LEGAL ACTION AGAINST ANOTHER PARTY AS PROVIDED IN THE ACT OR
20 OTHERWISE. EXHAUSTION OF THE ADMINISTRATIVE REMEDY PROVIDED IN
21 THIS SECTION IS NOT REQUIRED BEFORE A LANDLORD OR HOME OWNER
22 MAY BRING A LEGAL ACTION.

23 (13) A LANDLORD MAY NOT TAKE ANY RETALIATORY ACTIONS
24 AGAINST A HOME OWNER FOR EXPRESSING AN INTENTION TO FILE A
25 COMPLAINT UNDER THIS PROGRAM OR FILING A COMPLAINT UNDER THIS
26 PROGRAM. IF THE DIVISION DETERMINES THAT A LANDLORD HAS
27 RETALIATED AGAINST A HOME OWNER, THE DIVISION MAY IMPOSE A FINE

1 OF UP TO TEN THOUSAND DOLLARS ON THE LANDLORD.

2 (14) ANY PENALTY LEVIED AGAINST A LANDLORD UNDER THIS
3 PART 9 SHALL BE A LIEN AGAINST THE LANDLORD'S MOBILE HOME PARK
4 UNTIL THE LANDLORD PAYS THE PENALTY.

5 **38-12-906. Registration of mobile home parks - process - fees.**

6 (1) THE DIVISION SHALL REGISTER ALL MOBILE HOME PARKS ON AN
7 INDIVIDUAL BASIS AND RENEW THIS REGISTRATION ANNUALLY.

8 (2) THE DIVISION SHALL ANNUALLY SEND REGISTRATION
9 NOTIFICATIONS AND INFORMATION PACKETS TO ALL KNOWN LANDLORDS
10 OF UNREGISTERED MOBILE HOME PARKS. THESE INFORMATION PACKETS
11 MUST INCLUDE:

12 (a) REGISTRATION FORMS THAT SATISFY ALL OF THE
13 REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION;

14 (b) INFORMATION ABOUT THE DIFFERENT METHODS OF
15 REGISTRATION;

16 (c) INFORMATION ABOUT THE SINGLE, STATEWIDE TOLL-FREE
17 TELEPHONE NUMBER DESCRIBED IN SUBSECTION (11) OF THIS SECTION;

18 (d) REGISTRATION ASSESSMENT INFORMATION, INCLUDING
19 REGISTRATION DUE DATES AND LATE FEES, AND THE COLLECTIONS
20 PROCEDURES, LIENS, AND CHARGING COSTS TO HOME OWNERS; AND

21 (e) A DESCRIPTION OF THE PROTECTIONS AFFORDED HOME OWNERS
22 UNDER SECTION 38-12-905 (13).

23 (3) THE DIVISION SHALL ANNUALLY SEND REGISTRATION RENEWAL
24 NOTIFICATIONS AND INFORMATION PACKETS TO ALL REGISTERED MOBILE
25 HOME PARKS.

26 (4) A LANDLORD MUST FILE FOR REGISTRATION OR REGISTRATION
27 RENEWAL BY SUBMITTING TO THE DIVISION, EITHER THROUGH THE

1 DIVISION'S WEBSITE, BY MAIL, OR IN PERSON, A REGISTRATION OR
2 REGISTRATION RENEWAL FORM PROVIDED BY THE DIVISION AND PAY A
3 REGISTRATION FEE AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

4 (5) A LANDLORD MUST NOTIFY THE DIVISION WITHIN THIRTY DAYS
5 OF A CHANGE IN THE OWNERSHIP OF THE LANDLORD'S MOBILE HOME PARK
6 SO THAT THE DIVISION MAY UPDATE THE MOBILE HOME PARK'S
7 REGISTRATION INFORMATION.

8 (6) THE DIVISION SHALL MAKE AVAILABLE ON THE DIVISION'S
9 WEBSITE ELECTRONIC FORMS TO REGISTER A MOBILE HOME PARK. THESE
10 FORMS MUST BE AVAILABLE IN BOTH ENGLISH AND SPANISH AND SATISFY
11 ALL OF THE REQUIREMENTS OF SUBSECTION (7) OF THIS SECTION.

12 (7) THE REGISTRATION FORMS PROVIDED BY THE DIVISION MUST
13 REQUIRE INFORMATION NECESSARY TO ASSIST THE DIVISION IN
14 IDENTIFYING AND LOCATING A MOBILE HOME PARK AND OTHER
15 INFORMATION THAT MAY BE USEFUL TO THE STATE INCLUDING, AT A
16 MINIMUM:

- 17 (a) THE NAME AND ADDRESS OF THE LANDLORD;
- 18 (b) THE NAME AND ADDRESS OF THE MOBILE HOME PARK;
- 19 (c) THE NUMBER OF LOTS WITHIN THE MOBILE HOME PARK;
- 20 (d) THE NUMBER OF MOBILE HOMES WITHIN THE MOBILE HOME
21 PARK; AND
- 22 (e) THE ADDRESS OF EACH MOBILE HOME WITHIN THE MOBILE
23 HOME PARK.

24 (8) THE DIVISION SHALL ESTABLISH BY RULE A FEE THAT EACH
25 LANDLORD SHALL PAY TO THE DIVISION AS AN ANNUAL REGISTRATION FEE
26 FOR EACH MOBILE HOME WITHIN A MOBILE HOME PARK. A LANDLORD MAY
27 CHARGE A HOME OWNER NOT MORE THAN HALF OF THE FEE. THE

1 REGISTRATION FEE FOR EACH MOBILE HOME MUST BE DEPOSITED INTO THE
2 FUND. THE DIVISION SHALL REVIEW THE ANNUAL REGISTRATION FEE AND,
3 IF NECESSARY, ADJUST THE ANNUAL REGISTRATION FEE THROUGH
4 RULE-MAKING TO ENSURE IT CONTINUES TO REASONABLY RELATE TO THE
5 COST OF ADMINISTERING THE PROGRAM.

6 (9) INITIAL REGISTRATIONS OF MOBILE HOME PARKS MUST BE FILED
7 BEFORE FEBRUARY 1, 2020, AND AFTER THAT DATE WITHIN THREE
8 MONTHS OF THE AVAILABILITY OF MOBILE HOME LOTS FOR RENT WITHIN
9 A NEW PARK. A LANDLORD WHO WAS SENT AN INITIAL REGISTRATION
10 FORM AND WHO MISSED THE DEADLINE FOR REGISTRATION IS SUBJECT TO
11 A DELINQUENCY FEE OF UP TO FIVE THOUSAND DOLLARS. LANDLORDS WHO
12 RECEIVE REGISTRATION RENEWAL NOTIFICATIONS AND DO NOT RENEW
13 THEIR REGISTRATION BY THE EXPIRATION DATE AS ASSIGNED BY THE
14 DIVISION ARE ALSO SUBJECT TO A DELINQUENCY FEE OF FIVE THOUSAND
15 DOLLARS.

16 (10) REGISTRATION IS EFFECTIVE ON THE DATE DETERMINED BY
17 THE DIVISION, AND THE DIVISION MUST ISSUE A REGISTRATION NUMBER TO
18 EACH REGISTERED MOBILE HOME PARK. THE DIVISION MUST PROVIDE AN
19 EXPIRATION DATE, ASSIGNED BY THE DIVISION, TO EACH REGISTERED
20 MOBILE HOME PARK.

21 (11) THE DIVISION SHALL ESTABLISH A SYSTEM, INCLUDING BUT
22 NOT LIMITED TO A SINGLE, STATEWIDE TOLL-FREE TELEPHONE NUMBER,
23 FOR RESPONDING DIRECTLY TO INQUIRIES ABOUT THE REGISTRATION
24 PROCESS.

25 **38-12-907. Registration information database.** BY FEBRUARY
26 1, 2020, THE DIVISION SHALL CREATE AND MAINTAIN A DATABASE THAT
27 INCLUDES ALL OF THE INFORMATION COLLECTED UNDER SECTION

1 38-12-906.

2 **38-12-908. Mobile home park complaint database.** (1) BY
3 MAY 1, 2020, THE DIVISION SHALL ALSO CREATE AND MAINTAIN A
4 DATABASE OF MOBILE HOME PARKS THAT HAVE HAD COMPLAINTS FILED
5 AGAINST THEM UNDER THE PROGRAM.

6 (2) AT A MINIMUM, THE DATABASE MUST INCLUDE:

7 (a) THE NUMBER OF COMPLAINTS RECEIVED;

8 (b) THE NATURE AND EXTENT OF THE COMPLAINTS RECEIVED;

9 (c) THE VIOLATION OF LAW COMPLAINED OF; AND

10 (d) THE OUTCOME OF EACH COMPLAINT.

11 **38-12-909. Mobile home park act dispute resolution and**
12 **enforcement program annual report.** THE DIVISION SHALL PREPARE AN
13 ANNUAL REPORT THAT CONTAINS, AT A MINIMUM, THE NUMBER OF
14 CONSTITUENTS CONTACTED BY THE DIVISION IN REGARD TO THE PROGRAM,
15 THE NUMBER OF COMPLAINTS RECEIVED UNDER THE PROGRAM RECEIVED
16 BY THE DIVISION, THE NUMBER OF COMPLAINTS UNDER THE PROGRAM
17 RESOLVED BY THE DIVISION, A BRIEF SUMMARY OF THE NATURE OF THE
18 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION, HOW THE
19 COMPLAINTS UNDER THE PROGRAM RECEIVED BY THE DIVISION WERE
20 RESOLVED, THE NUMBER OF ADMINISTRATIVE APPEALS UNDER THE
21 PROGRAM, A SUMMARY OF ANY RELEVANT COURT DECISIONS RELATING TO
22 THE PROGRAM, AND A SUMMARY OF RESULTS OF AN ANNUAL CONSTITUENT
23 SURVEY CONDUCTED BY AN INDEPENDENT CONTRACTOR.

24 **38-12-910. Mobile home park act dispute resolution and**
25 **enforcement program fund.** (1) THERE IS HEREBY CREATED IN THE
26 STATE TREASURY THE MOBILE HOME PARK ACT DISPUTE RESOLUTION AND
27 ENFORCEMENT PROGRAM FUND. ALL MONEY COLLECTED PURSUANT TO

1 THE PROGRAM MUST BE DEPOSITED IN THE FUND. THE FUND SHALL BE
2 USED BY THE DIVISION FOR THE COSTS ASSOCIATED WITH ADMINISTERING
3 THE PROGRAM. THE MONEY IN THE FUND SHALL BE CONTINUOUSLY
4 APPROPRIATED FOR ADMINISTERING THE PROGRAM. ALL INTEREST AND
5 INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEY IN THE
6 FUND SHALL BE CREDITED TO THE FUND. ANY UNEXPENDED AND
7 UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF A FISCAL
8 YEAR SHALL REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR
9 TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND.

10 (2) THE DIVISION, BY RULE OR AS OTHERWISE PROVIDED BY LAW,
11 MAY REDUCE THE AMOUNT OF ANY FEE IMPOSED UNDER THIS PART 9 IF
12 NECESSARY PURSUANT TO SECTION 24-75-402 (3) TO REDUCE THE
13 UNCOMMITTED RESERVES OF THE FUND TO WHICH ALL OR ANY PORTION OF
14 THE FEE IS CREDITED. AFTER THE UNCOMMITTED RESERVES OF THE FUND
15 ARE SUFFICIENTLY REDUCED, THE DIVISION, BY RULE OR AS OTHERWISE
16 PROVIDED BY LAW, MAY INCREASE THE AMOUNT OF THE FEES IMPOSED
17 UNDER THIS PART 9 AS PROVIDED IN SECTION 24-75-402 (4).

18 **38-12-911. Immunity.** ANY INDIVIDUALS ACTING ON BEHALF OF
19 THE DIVISION ARE IMMUNE FROM SUIT IN ANY ACTION, CIVIL OR CRIMINAL,
20 BASED UPON ANY DISCIPLINARY ACTIONS OR OTHER OFFICIAL ACTS
21 PERFORMED IN THE COURSE OF THEIR DUTIES UNDER THIS PART 9, EXCEPT
22 THEIR INTENTIONAL OR WILLFUL MISCONDUCT.

23 **SECTION 9. Safety clause.** The general assembly hereby finds,
24 determines, and declares that this act is necessary for the immediate
25 preservation of the public peace, health, and safety.